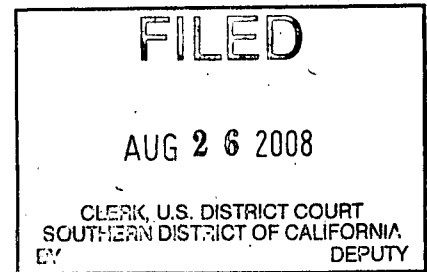


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Attorneys for Plaintiff
United States of America



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

SAUL GARCIA-ALCANTAR (1),

Defendant.

Criminal Case No. 08CR2426-WQH

**STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF MATERIAL
WITNESS AND ORDER THEREON**

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, KAREN P. HEWITT, United States Attorney, and William A. Hall, Jr., Assistant United States Attorney, and Defendant SAUL GARCIA-ALCANTAR, by and through and with the advice and consent of defense counsel, Jack J. Boltax, Esq., that:

1. Defendant agrees to execute this stipulation on or before the disposition date and to participate in a full and complete inquiry by the Court into whether Defendant knowingly, intelligently and voluntarily entered into it. Defendant agrees further to plead guilty to Count 2 of the Indictment which charges Defendant with a non-mandatory minimum count of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C. § 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

2. Defendant agrees to plead guilty to the charge described above pursuant to the plea agreement on or before August 22, 2008.

3. The material witness, Nancy Alvarez-Acha, in this case:

- a. Is an alien with no lawful right to enter or remain in the United States;
- b. Entered or attempted to enter the United States illegally on or about July 10, 2008;
- c. Was found in a vehicle driven by Defendant at the San Ysidro, California Port of Entry ("POE"), and that Defendant knew or acted in reckless disregard of the fact that she was an alien with no lawful right to enter or remain in the United States;
- d. Was paying, or having others pay on her behalf, \$3,000 USD to Defendant or others to be brought into the United States illegally and/or transported illegally to her destination therein; and,
- e. May be released and remanded immediately to the Department of Homeland Security for return to her country of origin.

4. After the material witnesses are ordered released by the Court pursuant to this stipulation and joint motion, if Defendant does not plead guilty to the charge set forth above, for any reason, or thereafter withdraws his guilty plea to that charge, Defendant agrees that in any proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

- a. The stipulated facts set forth in paragraph 3 above shall be admitted as substantive evidence;
- b. The United States may elicit hearsay testimony from arresting agents regarding any statements made by the material witness provided in discovery, and such testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest of an unavailable witness or witnesses; and,

1 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
 2 "testimonial" hearsay statements are not admissible against a defendant unless the defendant
 3 confronted and cross-examined the witness or witnesses who made the "testimonial" hearsay
 4 statements, Defendant waives the right to confront and cross-examine the material witness in this
 5 case.

6 5. By signing this stipulation and joint motion, Defendant certifies that Defendant has
 7 read it (or that it has been read to Defendant in Defendant's native language). Defendant certifies
 8 further that Defendant has discussed the terms of this stipulation and joint motion with defense
 9 counsel and fully understands its meaning and effect.

10 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
 11 immediate release and remand of the above-named material witness to the Department of Homeland
 12 Security for return to her country of origin.

13 It is STIPULATED AND AGREED this date.

14 Respectfully submitted,

15 KAREN P. HEWITT
 16 United States Attorney

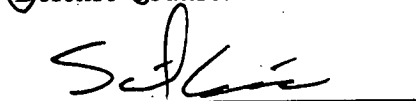
17 Dated: 8/26/08

18 
 19 WILLIAM A. HALL, JR.
 20 Assistant United States Attorney

21 Dated: 8/19/08

22 
 23 JACK J. BOLTAX, ESQ.
 24 Defense Counsel

25 Dated: 8/19/08

26 
 27 SAUL GARCIA-ALCANTAR
 28 Defendant

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness be released and remanded forthwith to the Department of Homeland Security for return to her country of origin.

SO ORDERED.

Dated: 8/26/08

W. Maloney
United States Magistrate Judge